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Federal Communications Commission
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March 27, 2000

Lee W. Shubert, Esq.
Rosenman and Colin
815 15th Street, N.W.
9th Floor
Washington, DC 20005

Dear Mr. Shubert:

This responds to the Petition for Reconsideration filed by Deas Communications, Inc. of the letter decision of September 24, 1999 by the Chief, Allocations Branch, denying Deas' request that the Chief re-designate the allotment reference coordinates for vacant Channel 241A (96.3 MHz), Boonville, California. This response affirms our letter decision that the Boonville allotment is viable, and that a Class A maximum facility at the reference site would place the requisite city-grade signal contour beyond Boonville.

Deas' petition alleges that our letter is inconsistent with the Commission's rules, specifically in contravention of Rule Section 73.315(b). He contends that our finding that an obstruction exists in the signal path from the reference site at Boonville conflicts with the plain language of Section 73.315(b) that no major obstruction should be in the path. Deas specifically takes issue with our reliance on *Vacaville and Middletown, California*, 4 FCC Rcd 8315 (1989), *recon. denied*, 6 FCC Rcd 143 (1991), for the proposition that the rule is permissive as to "major" obstructions existing in the path. He argues that his appended engineering statement demonstrates that by applying "conventional techniques," 70 dBu service cannot be accomplished from the Boonville reference point. Therefore, you conclude that the Channel 241A allotment site is not viable and should be re-designated.

The engineering statement states that tests were conducted on the adequacy of the reference site using three different profile paths and it was determined that obstructions existed in each path preventing a 70 dBu signal to be found "within the confines of Boonville." The statement also reports that path loss calculations were made using NBS Technical Note 101 and the Terrain Integrated Rough Earth Model that examines the specific terrain along the pertinent radial as opposed to the eight-radial average, rolling terrain for use with the Commission's F(50,50) curves. The engineering statement also offers an alternate reference site, from which, Deas alleges, a 70 dbu signal contour would be placed beyond the boundaries of Boonville, both by using the F(50,50) curves and Tech Note 101. The statement quotes *Vacaville* that "it is *mandatory* [Deas' emphasis added] that a minimum field strength of 70 dBu be provided over the city to be

served.” Therefore, he concludes that *Vacaville* supports his position that “70 dBu service” must be provided within Boonville.¹

We reject your petition for several reasons. First, even though we decided to address the merits of your prior letter, it is generally our policy not to entertain requests to change allotment reference coordinates absent a request to make other changes to the Table of Allotments. *See Cave City, Kentucky*, 7 FCC Rcd 3782 (1992), and *Fair Bluff, North Carolina*, 11 FCC Rcd (1996). Here, no rulemaking request was filed. We note, however, that you have filed in an application (File No. BPH-990521IO) to relocate the transmitter site for Deas’ Station KSXY(FM) because of its short-spacing to the Boonville site, the application being contingent on our re-designation of that reference site. Second, your challenge to the validity of the allotment is untimely; it should have been made more than two years ago in the rulemaking proceeding that resulted in the allotment of Channel 241A to Boonville, CA, MM Docket No. 97-46, 13 FCC Rcd 2145(1998).

Third, even were we to consider such challenge to the validity of the allotment, a petitioner has a heavy burden to justify examination of the terrain along a single radial (from an identified site) in order to determine city-grade coverage. Deas has not met the burden of demonstrating why it departed from the Commission’s standard propagation methodology, wherein uniform, average terrain is assumed in all directions from the transmitter site (for computation of HAAT) to determine whether principal city coverage is obtained.² Fourth, we affirm the finding that the 70 dBu signal strength contour extends beyond the community, and this would meet the requirements of Section 73.315(a) over the entirety of Boonville. While our engineering analysis reveals that the predicted field strength along a portion of the radial over Boonville may fall below 70 dBu, our Rules require only that the 70 dBu signal contour extend over the entire community.³

¹ This represents a fundamental misunderstanding of our requirements. The requirement is that the 70 dBu contour must be shown to extend past the community, which means that the community itself would receive on average a 70 dBu field strength, although as explained in note 3, every point within the community may not receive a signal of that field strength.

Deas’ argument is also flawed in insisting that §73.315(a) is not permissive in its stating that “in no event should there be a major obstruction in this path.” The question is, what is a major obstruction? A major obstruction is one where there is no line-of-sight beyond the obstruction. Such obstruction would so attenuate the signal that it is highly unlikely a signal strength of 70 dBu could ever extend beyond the obstruction. Here, there is no major obstruction. Line-of-sight can be achieved from the reference site to points just beyond Boonville.

Use of the standard F(50,50) curves also reveals, as stated in our original letter denial, that the alternate site Deas offers will not comply with §73.315(a) either.

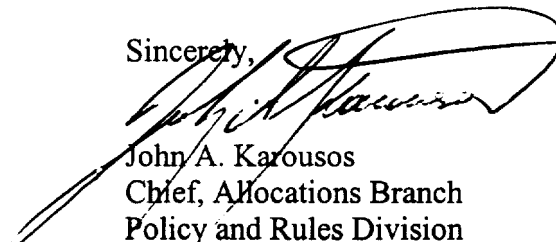
² Use of the standard Commission methodology also reveals, as we stated in the original letter denial, that the alternate site you again offer is defective because Boonville is located 18.2 km away from the reference site, and, thus, too far to receive the requisite 70 dBu signal.

³ Rule §73.311(b)(3) states that the field strength contours shall be used for determining compliance with §73.315(a) as to the minimum field strength to be provided over the community to be served. Therefore, whenever the 70 dBu signal contour extends beyond the community, the requirement to deliver a city-grade

Finally, as is suggested by use of a directional antenna at Deas' present transmitter site for Station KSXY(FM), the company is aware that the Commission permits the use of directional antennas to avoid short-spacing to another FM allotment. We question whether the use of a directional antenna and the provisions of contour protection in Rule §73.215 have been explored to remedy the 2.5 km short-spacing of his Healdsburg application to the Boonville allotment site. The public interest would be better served by full utilization of all options available under our Rules rather than the Commission's embarking on an uncertain course of departing from well-established policies to promote provision of the maximum radio service to the public.

Accordingly, and under Section 0.283 of the Commission's Rules, the aforementioned petition for Reconsideration filed by Deas Communications, Inc. is **HEREBY DENIED**.

Sincerely,



John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

signal to the community has been met, regardless of whether there may be some areas within that contour, even within the community, that receive a signal of less than 70 dBu field strength. City-grade coverage means that 70 dBu field strength is present at 50% or more of the locations 50% or more of the time, which expresses the location and time variability of the signal strength within the 70 dBu contour. Boonville is located 15.6 km southeast of the reference site and we examined the field strengths from that site for a distance of 30 m along the 112.4° N azimuth towards the community. Using a 3-arc second terrain data base, we computed the field strengths along that radial based on path clearances over the terrain profile to Boonville. For locations between 12.5 and 17.5 km (where Boonville lies) the predicted field strengths fell below 70 dBu. Therefore, even though the field strength levels were lower than 70 dBu at various locations in Boonville, 50% or more of the locations at distances 23.5 km or less (which includes the community) receive field strengths of 70 dBu or greater 50% or more of the time.